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OTC / LICENSING

In the Matter of the Suspension of the License
to Conduct Gambling Activities of:

Bob's Rubattino Restaurant,

Licensee.

NO. CR 2009-00357

SETTLEMENT ORDER

This Settlement Order is entered into between the Washington State Gambling Commission and Bob's Rubattino Restaurant. H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Gambling Commission. The licensee is represented by Robert Delancey, owner.

I.

Bob's Rubattino Restaurant, 808 S 3rd, Renton, organization number 00-05817, has been issued the following license by the Washington State Gambling Commission:

Number 05-02363, Authorizing Class "A" Punchboard/Pull-Tab Activity.

This license, which expires on September 30, 2009, was issued subject to the licensee's compliance with state gambling laws and Commission rules.

II.

In the above-entitled case, the Director issued a Notice of Administrative Charges on March 17, 2009, seeking the suspension of Bob's Rubattino's Restaurant gambling license. On April 6, 2009, Commission staff received the licensee's request for a hearing.

The following is a summary of the facts alleged, and the violations charged in the Notice of Administrative Charges:

- The licensee failed to submit its punchboard/pull-tab activity report for the third and fourth quarters of 2008, within 30 days following the end of the third and fourth quarter of 2008. This conduct violated WAC 230-14-284.
- In September 2008, the licensee failed to timely renew its punchboard/pull-tab license. The licensee continued to operate punchboard/pull-tab activity after its license expired on September 30, 2008. The licensee did not submit a new application until October 17, 2008. A punchboard/pull-tab activity license was issued to the licensee on December 9, 2008.
- Although it did not have a valid license, the licensee operated punchboard/pull-tab activity from October 1, 2008, through December 9, 2008.

- Additionally, this is a violation of a previous Settlement Order, dated May 2007, in which the licensee agreed to submit all future activity reports no later than 30 days following the end of the period for which it is made.
- In August 2006, a Commission Special Agent issued a Notice of Violation and Settlement (NOVAS¹) to the licensee for failing to timely submit its activity report for the first and second quarters of 2006.
- The licensee's failure to timely submit its activity reports demonstrates the licensee's willful disregard for complying with state administrative rules. Grounds exist for the suspension of Bob's Rubattino Restaurant's license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1) and (3).
- It is also a violation of the May 2007, Settlement Order, and constitutes grounds to impose the three-day deferred suspension pursuant to that Settlement Order.

RCW 9.46.075(1)

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

WAC 230-03-085(1) and (3), Denying, suspending, or revoking an application, license or permit.

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

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¹ The NOVAS identifies the violation and gives the recipient the opportunity to pay a fine to settle the matter.

WAC 230-14-284, Activity for punchboard and pull-tab licensees.

Punchboards and pull-tab licensees must submit an activity report to the Commission. Licensees must complete the report in the format we require and must:

- (1) Cover the periods:
 - (a) January 1 through June 30; and
 - (b) July 1 through December 31; and
- (2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and
- (3) Be signed by the licensee's highest-ranking executive officer or a designee. If someone other than the punch board and pull-tab licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and
- (4) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license.

III.

Bob's Rubattino Restaurant has submitted its delinquent Activity Report. The licensee waives its right to a hearing and, the parties agree to settle this matter under the following terms:

- 1) The licensee's gambling license is hereby **suspended for a period of twenty (20) days**, provided that:
 - a) **Three (3) days of the suspension** shall not be currently served, but **shall be deferred for a period of two years** from the date of entry of this Settlement Order, subject to the following:
 - The licensee must not violate the terms of this Settlement Order, or Washington's gambling statutes and/or regulations during the two (2) year term, including failing to submit future activity reports when due.
 - If the licensee violates the terms of this order, gambling statutes, or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three (3) day suspension of the current gambling license and any subsequently acquired gambling license(s).
 - b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this settlement, has sole discretion to determine whether the licensee has violated any term of this settlement.
 - c) In the event the Director determines that a violation of this section or any other type of violation has occurred, he may suspend the license(s) issued to Bob's Rubattino Restaurant by mailing or delivering a Notice of Administrative Charges to the licensee. The suspension shall be in addition to the consequences of the new violation. The licensee shall be given the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

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d) Pursuant to RCW 9.46.077, the licensee has agreed to **vacate the remaining seventeen (17) days** of this suspension by paying a fine in the amount of one thousand, two hundred dollars (\$1,200). The licensee has also agreed to reimburse the Commission for its investigative and administrative costs in the amount three hundred dollars (\$300) for total **finances and costs of one thousand, five hundred dollars (\$1,500). Payments are due in two installments.**

- **The first installment of \$750 is due by May 18, 2009.**
- **The second installment of \$750 is due by June 15, 2009.**

Payments must be **mailed** to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
P.O. Box 42400
Olympia, WA 98504-2400

or **delivered** (in person or via private courier) to the following address:

Washington State Gambling Commission
4565 7th Avenue SE; Fourth Floor
Attention: Communications and Legal Division – Fines
Lacey, WA 98503

e) Additionally, the licensee will **serve three (3) days of the previously deferred suspension** from the Settlement Order dated May 2007.

- **The suspension period will begin at 8:00 a.m. on Tuesday, May 26, 2009, and shall run through Thursday, May 28, 2009.**
- The licensee may resume its gambling activities at 8:00 a.m. on Friday, May 29, 2009.
- During this period of suspension, *no gambling activities shall take place at the licensed premises.*

f) **The signed order and first payment must be received by Commission staff on or before May 18, 2009.**

2) **The licensee agrees to submit its activity reports within 30 days following the end of the reporting period.** Failure to do so may result in the filing of administrative charges for the suspension or revocation of Bob's Rubattino Restaurant license to conduct gambling activities

3) If the licensee makes its payments, as set forth above, this matter will be deemed closed. However, if the licensee fails to make its payments on time, the Director may impose a **two (2) day** suspension for each late payment. Serving the suspension would not, however, relieve the licensee of its obligation to pay its fine.

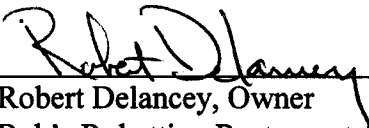
DATED this 30th day of June, 2009.

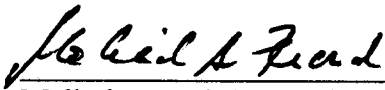
Administrative Law Judge

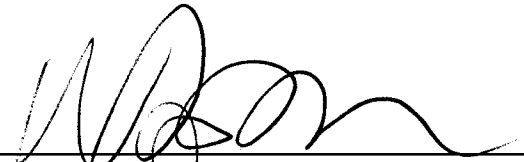
APPROVED FOR ENTRY:

ACCEPTED AS TO FORM:

By the signature below, the licensee acknowledges reading the Settlement Order, and understands the terms and conditions.


Robert Delancey, Owner (DATE)
Bob's Rubattino Restaurant


Melinda Froud, WSBA#26792
Lead Staff Attorney
Washington State Gambling Commission


H. Bruce Marvin, WSBA# 25152
Assistant Attorney General, Representing
the Washington State Gambling
Commission